

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Thomas Sullivan, #270534,	)	C/A No.: 8:08-cv-1744-GRA
a/k/a Thomas Brenore Sullivan,	)	
a/k/a Thomas B. Sullivan,	)	
	)	<b>ORDER</b>
	)	(Written Opinion)
Plaintiff,	)	
v.	)	
	)	
Hon. Henry J. Floyd, District Court	)	
Judge; Henry McMaster, S.C. Attorney	)	
General; Robert M. Ariail, Greenville	)	
County Solicitor; Matthew Wallace,	)	
Greenville County Assistant Solicitor;	)	
and Attorney Jack H. Lynn,	)	
	)	
Defendants.	)	
	)	

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This matter is before the Court for a review of the magistrate's Report and Recommendation filed on May 12, 2008, and made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C. Plaintiff filed a Complaint in this case which the magistrate liberally construed as claims for damages pursuant to 42 U.S.C. §§ 1983, 1985, 1986. The magistrate recommends that this Court dismiss the Complaint, without prejudice and without issuance and service of process, because Plaintiff fails to state a claim upon which relief may be granted against any of the named defendants. In addition, the magistrate recommends that this case be deemed a strike for purposes of the "three strikes" rule of 28 U.S.C. § 1915(g).

Plaintiff brings this action *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Plaintiff filed objections to the Report and Recommendation on May 27, 2008.

Plaintiff's Objections can be summarized into two main arguments. First, the plaintiff argues that his claims are under the Uniform Commercial Code ("UCC") are valid; therefore, the defendants must file an Answer to his Complaint. Next, Plaintiff

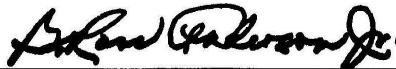
claims that the magistrate judge is without jurisdiction to issue a Report and Recommendation in his case. The Court has reviewed Plaintiff's Objections and has concluded that they are wholly without merit.

After a review of the magistrate's Report and Recommendation and the objections thereto, this Court finds the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS HEREBY ORDERED that Plaintiff's Complaint be dismissed without prejudice and without issuance and service of process.

IT IS FURTHER ORDERED that the above captioned case shall be deemed a strike against plaintiff for purposes of the three strikes rule of 28 U.S.C. § 1915(g).

**IT IS SO ORDERED.**



G. ROSS ANDERSON, JR.  
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

June   3  , 2008

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiff has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**